

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 93-730-G - ORDER NO. 94-565
JUNE 20, 1994

IN RE: Energy Policy Act of 1992 -) ORDER ADDRESSING
Section 115 - Encouragement) SECTION 115 OF
of Investments in Conservation) THE ENERGY POLICY
and Energy Efficiency by Gas) ACT OF 1992
Utilities)

This matter is before the Public Service Commission of South Carolina (the Commission) for consideration of whether the adoption of certain standards established by the Energy Policy Act of 1992 (the EPACT or the Act) will carry out the purposes of the Public Utility Regulatory Policies Act of 1978 (PURPA). Specifically, before the Commission is the consideration of the standards established by Section 115 of the EPACT.

FINDINGS OF FACT

AND

CONCLUSIONS OF LAW

The EPACT became law on October 24, 1992. The Act, among other things, amends Section 303 of PURPA. In relevant part, PURPA requires each State regulatory authority to consider whether or not it is necessary to implement certain standards to carry out its purposes. PURPA, Section 303(a). The purposes of PURPA are as follows: to encourage (1) conservation of energy supplied by gas utilities, (2) the optimization of the efficiency of use of facilities and resources by gas utility systems; and (3) equitable

rates to gas consumers of natural gas. PURPA, Section 301.

Section 115(b) of the EPACT adds the following two standards to PURPA:

3. Integrated Resource Planning.¹ - Each gas utility shall employ, in order to provide adequate and reliable service to its gas customers at the lowest system cost. All plans or filings of a State regulated gas utility before a State regulatory authority to meet the requirements of this paragraph shall (A) be updated on a regular basis, (B) provide the opportunity for public participation and comment, (C) provide for methods of validating predicted performance, and (D) contain a requirement that the plan be implemented after approval of the State regulatory authority. Subsection (c) shall not apply to this paragraph to the extent that it could be construed to require the State regulatory authority to extend the record of a State proceeding in submitting reports to the Federal Government.

4. Investments in Conservation and Demand Management. - The rates charged by any State regulated gas utility shall be such that the utility's prudent investments in, and expenditures for, energy conservation and load shifting programs and for other demand-side management² measures which are consistent with the findings and purposes of the Energy Policy Act of 1992 are at least as profitable (taking into account the income lost due to reduced sales resulting from such programs) as prudent investments in, and expenditures for, the acquisition or construction of supplies and facilities. This objective requires that (A) regulators

1. In the case of a gas utility, the term "integrated resource planning" is defined in the Act as follows:

...planning by the use of any standard, regulation, practice, or policy to undertake a systematic comparison between demand-side management measures and the supply of gas by a gas utility to minimize life-cycle costs of adequate and reliable utility services to gas consumers. Integrated resource planning shall take into account necessary features for system operation such as diversity, reliability, dispatchability, and other factors of risk and shall treat demand and supply to gas consumers on a consistent and integrated basis.

EPACT Section 115 (a)(9).

2. The EPACT defines demand-side management as including "energy conservation, energy efficiency, and load management techniques." Section 115 (a)(10).

link the utility's net revenues, at least in part, to the utility's performance in implementing cost-effective programs promoted by this section; and (B) regulators ensure that, for purposes of recovering fixed costs, including its authorized return, the utility's performance is not affected by reductions in its retail sales volumes.

In addition, Section 115(c) of the Act amends PURPA by adding the following new subsection at the end of Section 303 of PURPA:

(d) Small Business Impacts. - If a State regulatory authority implements a standard established by subsection (b)(3) or (4), such authority shall -

(1) consider the impact that implementation of such standard would have on small businesses engaged in the design, sale, supply, installation, or servicing of energy conservation, energy efficiency, or other demand-side management measures, and

(2) implement such standard so as to assure that utility actions would not provide such utilities with unfair competitive advantages over such small businesses.

Section 115 of the Act requires that the Commission consider and determine whether it is appropriate to implement the two above standards and, if necessary, the small business impacts by October 23, 1994.

On December 1, 1993, the Commission issued a Notice of Proceeding instructing interested parties on the scope of the proceeding and the manner in which to participate as a party of record. The Notice of Proceeding requested interested parties to file comments on the Section 115 issues. The four jurisdictional utilities, Piedmont Natural Gas Company (Piedmont), South Carolina Electric and Gas Company (SCE&G), South Carolina Pipeline Corporation (SCPC), and United Cities Gas Company (United), were made parties of record. The Commission instructed these utilities to publish one-time the Notice of Proceeding in newspapers of

general circulation. The utilities complied with this directive. Thereafter, the South Carolina Energy Users Committee (SCEUC), the Consumer Advocate for the State of South Carolina (the Consumer Advocate), and the United States Department of Defense (the DOD) intervened as parties of record. Each of these parties and the Commission Staff submitted either initial or reply comments.

Thereafter, the parties were able to reach stipulations which addressed all of the issues raised by Section 115 of the EPACT. Attachment A to this Order is the stipulation reached by Piedmont, SCPC, SCE&G, United, the DOD, the Consumer Advocate, and the Commission Staff. Attachment B to this Order is the stipulation reached between the SCEUC and the Commission Staff.³

After a thorough review of the applicable law, the submitted comments, and the two stipulations, the Commission concludes that the stipulations should be and hereby are approved.

IT IS SO ORDERED.


VICE Chairman

ATTEST:


Executive Director

(SEAL)

3. The two stipulations are identical except that the agreement between the SCEUC the Commission Staff does not contain the language "[t]he parties agree that, in attempting to comply with the objective and procedures of the Commission's IRP process, the gas utilities should seek to avoid those situations which result in an unfair competitive advantage over small energy related businesses."

STIPULATION FOR DOCKET NO. 93-730-G

IN RE: ENCOURAGEMENT OF INVESTMENTS IN CONSERVATION AND
ENERGY EFFICIENCY BY GAS UTILITIES (ENERGY POLICY ACT OF
1992).

PREAMBLE

A. Section 115 of the Energy Policy Act of 1992 (EPACT) requires state public service commissions to consider whether adoption of certain standards would carry out the purposes of the Public Utility Regulatory Policies Act of 1978 (PURPA).

The Section 115(b) standards to be considered are:

(3) Integrated Resource Planning (IRP).- Each gas utility shall employ, in order to provide adequate and reliable service to its gas customers at the lowest system cost. All plans or filings of a State regulated gas utility before a State regulatory authority to meet the requirements of this paragraph shall (A) be updated on a regular basis, (B) provide the opportunity for public participation and comment, (C) provide for methods of validating predicted performance, and (D) contain a requirement that the plan be implemented.

(4) Investments in Conservation and Demand Management.- The rates charged by any State regulated gas utility shall be such that the utility's prudent investments in, and expenditures for, energy conservation and load shifting programs and for other demand-side management measures which are consistent with the findings and purposes of the EPACT are at least as profitable as prudent investments in, and expenditures for, the acquisition or construction of supplies and facilities.

Under EPACT Section 115(d), if either of these two standards are implemented, the Commission shall:

(1) consider the impact that implementation of such standard would have on small businesses engaged in the design, sale, supply, installation, or service of energy

conservation, energy efficiency, or other demand-side management measures, and

(2) implement such standard so as to assure that the utility actions would not provide such utilities with unfair competitive advantages over such businesses.

B. On December 1, 1993 the Public Service Commission of South Carolina issued a notice under Docket No. 93-730-G inviting comments and participation from all interested parties. The parties were asked to address the following issues within their comments:

1. Whether the Section 115 standards are necessary to carry out the purposes of PURPA;

2. If the Section 115 standards are necessary to carry out the purposes of PURPA, whether the Commission's current IRP procedure is consistent with those purposes and, if not, recommendations to make the IRP consistent;

3. If the Section 115 standards are adopted, recommendations on procedures to address the effect of their implementation on small businesses.

C. Intervention was allowed until January 20, 1994. In addition to the Commission Staff, Piedmont Natural Gas Company, United Cities Natural Gas Company, South Carolina Pipeline Corporation and South Carolina Electric and Gas Company, the intervening parties included the Consumer Advocate for the State of South Carolina, the Department of Defense and Federal Executive Agencies, and the South Carolina Energy Users Committee.

D. The parties filed initial comments on March 1, 1994. Reply comments were filed by the parties on April 15, 1994.

STIPULATION

1. The parties to this stipulation agree that the Public Service Commission of South Carolina has provided public notice and conducted a hearing process concerning the appropriateness of the EPACT Section 115 amendments to PURPA Section 303 in full compliance with the requirements of EPACT.

2. The parties to this stipulation agree that the standards

enumerated as (b) (3) and (4) to Section 115 of EPACT do not need to be implemented or adopted by the Commission to carry out the purposes of the PURPA. The South Carolina Energy Conservation And Efficiency Act of 1992 specifically addresses the subject matter of Standards (b) (3) and (4) within Sections 58-37-10 through 58-37-40. Therefore, the Commission's Integrated Resource Planning process, established in Docket No. 91-677-G, already implements the Section 115 standards and it is unnecessary for the Commission to adopt the Section 115 standards.

3. The parties to this stipulation agree that since it is not necessary for the Commission to implement or adopt the Section 115 standards, it is, therefore, not necessary for the Commission to address the effect of implementation of these standards on small businesses. The parties agree that, in attempting to comply with the objective and procedures of the Commission's IRP process, the gas utilities should seek to avoid those situations which result in an unfair competitive advantage over small energy related businesses.

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* The noted signatures conform to the originals

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ATTACHMENT B

STIPULATION FOR DOCKET NO. 93-730-G

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